

changes or replenishment, the contracting officer shall include in the contract (1) a requirement for fluids containing the maximum available amounts of recovered materials; and (2) a preference for either retreaded tires meeting the Federal retread specifications or retreading services for the tires on the vehicle.

## PART 409—CONTRACTOR QUALIFICATIONS

### Subpart 409.4—Debarment, Suspension and Ineligibility

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### Subpart 409.5—Organizational and Consultant Conflicts of Interest

409.503 Waiver.

AUTHORITY: 5 U.S.C. 301 and 40 U.S.C. 486(c).

SOURCE: 61 FR 53646, Oct. 15, 1996, unless otherwise noted.

### Subpart 409.4—Debarment, Suspension and Ineligibility

#### 409.403 Definitions.

*Debarring official.* Pursuant to the Secretary's delegations of authority in 7 CFR 2.24, the Senior Procurement Executive (SPE) is designated as the debarring official (Department Debarring Officer) with the following exceptions:

(a) For commodity contracts awarded on behalf of the Commodity Credit Corporation (CCC), the Executive Vice President, CCC, or his designee is designated as the debarring official pursuant to 7 CFR part 1407.

(b) For contracts awarded under the School Lunch and Surplus Removal Programs (42 U.S.C. 1755 and 7 U.S.C. 612c), the Department Debarring Officer has delegated debarring authority

to the Agricultural Marketing Service (AMS).

[63 FR 26995, May 15, 1998]

#### 409.404 List of parties excluded from Federal procurement and nonprocurement programs.

The Department Debarring Officer is USDA's single point of contact with GSA for debarment and suspension actions taken under this subpart. The debarring official for AMS shall notify the Department Debarring Officer of each debarment and suspension action by promptly submitting a copy of the debarment or suspension notice and any later changes to the debarment or suspension status. The Department Debarring Officer will forward a copy of each notice to GSA for inclusion in the Government-wide list.

#### 409.405 Effect of listing.

Compelling reasons are considered to be present where failure to contract with the debarred or suspended contractor would seriously harm the agency's programs and prevent accomplishment of mission requirements. The SPE is authorized to make the determinations under FAR 9.405. Requests for such determinations shall be submitted through the head of the contracting activity (HCA) to the SPE.

#### 409.405–1 Continuation of current contracts.

The HCA is authorized to make the determinations under FAR 9.405–1.

#### 409.405–2 Restrictions on subcontracting.

The HCA is authorized to approve subcontracts with debarred or suspended subcontractors under FAR 9.405–2.

#### 409.406 Debarment.

#### 409.406–3 Procedures.

(a) *Investigation and referral.* When a contracting officer becomes aware of possible irregularities or any information which may be sufficient cause for debarment, the case shall be immediately referred through the HCA to the debarring official. The case must be accompanied by a complete statement of the facts (including a copy of